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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ROBERT SHEREZ,

Plaintiff,

vs.

STATE OF HAWAII DEPARTMENT
OF EDUCATION; PATRICIA
HAMAMOTO, Superintendent of
Hawai'i Schools, MEREDETH
MAEDA, Principal, Castle High
School; SARA GRONNER OR
GRONNA, Vice Principal of Castle
High School,

Defendants.

CIVIL NO. 04-00390 JMS-KSC

DEFENDANTS' SECOND
AMENDED PRETRIAL
STATEMENT; CERTIFICATE OF
SERVICE

DEFENDANTS' SECOND AMENDED PRETRIAL STATEMENT

Pursuant to Local Rule 16.6, Defendants, by and through their attorneys, James E. Halvorson and Nelson Y. Nabeta, Deputy Attorneys General, hereby submit this Second Amended Pretrial Statement.

A. PARTIES

This Second Amended Pretrial Statement is filed on behalf of Defendants State of Hawaii, Department of Education, Sarah Gronna and Meredith Maeda.

B. STATEMENT OF JURISDICTION AND VENUE

The Plaintiff brings both federal and state law claims against Defendants. On August 15, 2005, the Court allowed the Plaintiff to amend his First Amended Complaint. The Court had made this allowance because it had found serious deficiencies in the substantive claims asserted in the First Amended Complaint. On December 21, 2005, Plaintiff filed Second Amended Complaint (hereinafter "Complaint") Based on the Complaint, the Court appears to have jurisdiction over the Defendant State of Hawaii, Department of Education, solely on the causes of action arising out of Title IX and Title VII. However, the Court does not have jurisdiction over Defendants Gronna and Maeda, in their individual capacities.

C. SUBSTANCE OF THE ACTION

The Complaint against the Defendants State of Hawaii, Department of Education, Gronna and Maeda alleges that the Plaintiff was employed as a part

time home and hospital tutor in the Windward District of the Department of Education. The Complaint alleges Defendant Maeda was the principal of Castle High School and was the supervisor of Defendant Sarah Gronna, the school's vice principal who in turn was responsible for the "selection of home and hospital tutors." The Complaint further alleges that Defendant Gronna enforced an existing departmental policy that prevented the Plaintiff from tutoring female students. The Complaint alleges that the policy that prevented the Plaintiff from tutoring female students was purportedly adopted by the department, through the tutoring program because of recent litigation. The Complaint asserts that the alleged policy of the Department of Education discriminated against him because of his gender.

The Complaint also claims that after he complained about this alleged discriminatory policy, he was terminated from his part time employment as an adult education teacher.

D. UNDISPUTED FACTS

1. Defendant Department of Education is an executive department of the State of Hawaii.
2. During a portion of the relevant time described in the Complaint, Sarah Gronna served as a vice principal at Castle High School.
3. During the relevant time described in the Complaint, Defendant Meredith Maeda served as the principal of Castle High School.

4. During the relevant time described in the Complaint, the Plaintiff served as a part-time tutor in the Home Hospital Instructional program.

E. DISPUTED FACTUAL ISSUES

The Defendants dispute the existence of a discriminatory policy as described in the Complaint. The Defendants dispute that the Plaintiff was subjected to discrimination because of his gender. The Defendants dispute that the Plaintiff was terminated from his employment as an adult education teacher in retaliation for his complaints concerning his assignments as a tutor in the Home Hospital Instructional Program.

F. RELIEF PRAYED

Plaintiffs seek compensatory damages.

G. PREVIOUS MOTIONS

Defendants have filed both motions for judgment on the pleadings and for summary judgment requesting dismissal of all claims. The motion was granted in part and denied in part.

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Witnesses identified by Plaintiff in this litigation.

I. EXHIBITS

1. Employment records of the Plaintiff
2. Home Hospital Instruction Records
3. Tutoring records of the Plaintiff
4. Time sheets and payment records pertaining to the Plaintiff
5. Unemployment compensation records pertaining to the Plaintiff
6. Home Hospital Instructional administrative records pertaining to the Plaintiff.
7. Administrative Records concerning the Plaintiff
8. Windward Oahu District administrative records
9. Home-Hospital Instruction Services Guidelines
10. Honolulu District administrative records
11. McKinley Community School for Adults administrative records
12. Correspondence to and from Robert Sherez
13. Documents filed in the Equal Employment Opportunity Commission and the Hawaii Civil Rights Commission.
14. Exhibits Identified by Plaintiff

J. FURTHER DISCOVERY OR MOTIONS

Discovery is closed.

K. STIPULATIONS

No stipulations have been requested or proposed for pretrial or trial purposes.

M. AMENDMENTS, DISMISSEALS

When the Court allowed the Plaintiff to amend his First Amended Complaint, the Court also gave leave to the Defendants to file further dispositive motions.

N. SETTLEMENT DISCUSSION

Settlement discussions are not currently in progress. Defendants have made a settlement offer that was rejected.

O. AGREED STATEMENT

Defendants do not agree to have any portion of their presentation based upon agreed facts.

P. REFERENCE TO MASTER OR MAGISTRATE JUDGE

Defendants do not believe it would be appropriate to refer all or any of this action to a master or magistrate.

Q. APPOINTMENT AND LIMITATION OF EXPERTS

Defendants do not believe that the appointment of an impartial expert by the Court is necessary.

R. TRIAL

A jury trial is scheduled for March 28, 2007.

S. ESTIMATE OF TRIAL TIME

Defendants estimates that the presentation of their case-in-chief will take three court days.

DATED: Honolulu, Hawaii, February 16, 2007.

/s/ NELSON Y. NABETA
NELSON Y. NABETA
Deputy Attorney General

Attorney for Defendants